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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/051,200	01/17/2002	Stephen T. Garelli	MAC - 206	7246

8131 7590 02/08/2005

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EXAMINER	
LUK, EMMANUEL S	

ART UNIT	PAPER NUMBER
1722	

DATE MAILED: 02/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/051,200	GARELLI, STEPHEN T.	
	Examiner	Art Unit	
	Emmanuel S. Luk	1722	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *17 November 2004*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *3-8* is/are pending in the application.

4a) Of the above claim(s) *3-7* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *8* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:

   I. Claim 8, drawn to a method of molding, classified in class 264, subclass 335.

   II. Claims 3-7, drawn to a solid molded product, classified in class 206, subclass 0.8.

The inventions are distinct, each from the other because of the following reasons:

2. Inventions Group I and Group II are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case, the product can be made by another and materially different process such as press molding.

3. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

4. During a telephone conversation with Robert McKellar on February 3, 2005 a provisional election was made with traverse to prosecute the invention of Group I, claim 8. Affirmation of this election must be made by applicant in replying to this Office action. Claims 3-7 withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6. The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

7. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fekete et al (6403003) in view of Cole (4541795).

Fekete teaches a molding method with a molding machine containing a mold, wherein the mold comprises:

(A) an upper mold segment (56) having an upper surface (64);

(B) a lower mold segment (57) having a bottom surface (69), and

(C) a moveable core (58) having a top surface, a bottom surface and a centered opening therethrough, said opening having a near end and a distal end; wherein each mold segment has a confronting flat surface, each mold segment being capable of mating with the other mold segment at their respective confronting flat surfaces;

the opening in the concavity of the lower mold segment running through the lower mold segment and exiting through the bottom surface of the lower mold segment (Fig. 6, 7);

the moveable core having an outside configuration essentially identical to the concavities when the mold segments are mated with each other, the core having internally attached to the bottom thereof, a stem, said stem being slidably mounted in the opening in the concavity of the lower mold segment and extending beyond the bottom surface of the lower mold segment, said stem having centered therethrough, an opening (see Figure 6, 7);

the centered opening in the core having an air valve located in and near the near end thereof said centered opening in the core and said centered opening in the stem being interconnected to allow the intermittent passage of gas therethrough, there being a space created between the outside configuration of the core and the concavities when the mold segments are mated (Col. 6, lines 1-6; Col. 10, lines 38-42);

(II) providing a clamping force on the mold (Col. 4, lines 1-3 and 55-60);

(III) injecting liquid moldable material and allowing the liquid moldable material to fill the space created between the outside configuration of the core and the concavities (Col. 4, lines 60-62);

(IV) allowing the liquid moldable material to become a solid molded product (Col.4, lines 62-63);

(V) removing the clamping force on the mold and separating the upper mold segment and the lower mold segment and thereafter (Col. 4, line 63), moving the core from the lower mold segment (Col. 4, lines 63-65;

(VI) thereafter, injecting gas into the centered opening in the stem, thereby opening the gas valve in the near end of the centered opening in the core, and allowing the solid molded product to be inflated by the injected gas until the solid molded product is released from the core and thereafter, removing the solid molded product from the mold (Col. 6, lines 1-6; Col. 10, lines 38-42). In regards to the concavity, portions of the lower mold segment is concaved (Fig. 5-7) and the upper mold segment is concaved (Fig. 6). There are concave surfaces and flat segments on the core mold (Fig. 6, 7).

Fekete fails to teach the mold core having located in the confronting flat surface of each segment, an opening in the concavity of the upper mold segment running through the upper mold segment and exiting through the upper surface of the upper mold segment and injecting liquid moldable material into the upper mold segment via the upper mold segment opening.

Cole teaches the concept of an opening (133) in the upper mold segment (103) and through this opening material is used for injecting liquid moldable material (Col. 3, lines 1-2) into the cavity (10).

Fekete already teaches injection molding of the material into the cavity. It would have been obvious to one of ordinary skill in the art to modify Fekete with an opening in the upper mold segment as taught by Cole for allowing material to be injected into the cavity from this point.

Conclusion

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Emmanuel S. Luk whose telephone number is (571) 272-1134. The examiner can normally be reached on Monday-Thursday 8 to 5 and alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ben Utech can be reached on (571) 272-1137. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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